

November 14, 2002

SUBJECT: BADGER-TWO MEDICINE APPLICATIONS FOR PERMIT TO DRILL (APDS)

PURPOSE OF THE BRIEFING DOCUMENT:

Fina Oil and Chemical Company and Chevron USA both wanted to drill exploratory wells on their leases in the Badger-Two Medicine area of the Lewis and Clark National Forest, south of Glacier National Park (GNP). The Fina site is about 2.5 miles south of US Highway 2 and the southern boundary of GNP on a broad ridge between Hall Creek and one of its tributaries; the Chevron site is approximately 9 air miles southeast of the Fina site on the northeast slope of Goat Mountain, between the north and south forks of Badger Creek. Chevron USA sold its interests in the spring of 1999 to Ocean Energy Resources Incorporated (Ocean). Ocean was approved as the Successor Unit Operator and has taken responsibility for the initial well proposed by Chevron. Effective July 1, 2000, Sydney M. Longwell acquired Fina's lease interest, including responsibility for the proposed well.

ISSUES:

The BLM decides whether or not to approve APDs on federal leases. On national forest land, however, the FS has primary responsibility for surface related issues while the BLM has primary responsibility for "down hole" issues.

Fina submitted its APD in 1983, and it was approved three times previous to the 1993 decision: in 1985, 1987 and 1991. All three decisions were appealed to the Interior Board of Land Appeals (IBLA). The IBLA remanded the 1985 decision, returned the 1987 decision to the agencies at the request of the FS, and remanded the 1991 decision at the request of the BLM. Primary issues of the appeals were grizzly bear habitat; the rights retained by the Blackfoot Tribe; proximity to GNP and the Bob Marshall and Great Bear wildernesses; and the split of responsibilities between the BLM and the FS. Among the many appellants were the National Wildlife Federation (NWF), the Blackfoot Indian Tribe, the Alliance for the Wild Rockies, and the Badger Chapter of the Glacier-Two Medicine Alliance. The Assistant Secretary of the Interior concurred with the 1993 decision to approve the APD; therefore, it was not subject to appeal to the IBLA. The NWF, five other conservation groups, and three Native American groups filed suit on April 14, 1993, in U.S. District Court in Great Falls, Montana, to set aside the approved APD. Based on the Secretary's suspension order, the Department of Justice filed a motion to dismiss that suit. On July 28, 1993, the district court denied the motion to dismiss and ordered all proceedings in the case stayed until May 1, 1994. The court ordered administrative termination of this case on March 10, 1997. This termination is without prejudice to the rights of the parties to reopen proceedings for good cause shown, for the entry of any stipulation or order, or for any other purpose required to obtain a final determination of the litigation.

Chevron USA relinquished approximately 21,000 lease acres out of its 89,000 lease acre package in the Badger-Two Medicine area and adjacent lands on the Flathead National Forest during December 1998. The remaining 68,000 acres have been assigned during 1999 and Chevron no longer owns interest in federal oil and gas leases in the area.

MAIN DECISION OR MESSAGE:

The BLM "adopted" the Forest Service (FS) decision to approve Fina's surface use and operating plan, and in January 1993, the BLM approved Fina's APD for a single exploratory well. The Secretary of the Interior approved three consecutive one-year suspensions to the APD running through June 1996.

Also in June 1996, BLM issued a one-year suspension of operations and production on Fina's lease at the request of the FS. During the earlier suspensions, the Lewis and Clark National Forest received a final report from a contractor regarding the eligibility determinations for cultural properties within the Badger-Two Medicine area. It appears that the access road to the Fina site is within a portion of the eligible area. Again, in June 1997, a one-year suspension was granted to continue review of cultural properties. A formal determination of eligibility for cultural properties within the Badger-Two Medicine area was sent to the Keeper of the National Register in May 1997. After several subsequent letters between the FS and the Keeper, the Keeper determined on January 31, 2002, that the Badger-Two Medicine Blackfoot Traditional Cultural District is eligible for listing in the National Register of Historic Places. The FS will begin working with the Blackfoot Tribal Council to initiate consultation regarding the assessment of effects of this drilling proposal. The lease suspension will continue until conclusion of the cultural property review under Section 106 of the National Historic Preservation Act.

The decision on the Ocean APD is still pending completion of this same review.

BUREAU PERSPECTIVE:

Public interest is very high. National organizations are involved, and decisions occasionally get statewide attention. Demonstrations of opposition were staged in Great Falls and Missoula, Montana, following the 1993 decision to approve the APD. Senator Baucus introduced a bill (S. 1616) on February 5, 1998, to authorize exchange of existing federal oil and gas leases, including those within the Badger-Two Medicine, for federal oil and gas lease sale bidding credits or payments due on existing leases. This bill was not deliberated by the 105th Congress.

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